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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,886	07/21/2005	Andrea Urban	10191/3939	7030
26646	7590	10/07/2008	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			MEINZ, LAURA MARY	
			ART UNIT	PAPER NUMBER
			2813	
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			10/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,886

Applicant(s)

URBAN ET AL.

Examiner

Laura M. Menz

Art Unit

2813

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/3/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 16-30 is/are pending in the application.
- 4a) Of the above claim(s) 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13, 16-24 is/are rejected.
- 7) ☒ Claim(s) 25-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 13-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Chooi et al ('657).

Chooi teaches the following claimed limitations as cited below:

13. (New) A layer system, comprising:

a silicon layer (12); and

a passivating layer at least regionally and superficially deposited on the silicon layer, wherein the passivating layer has a substantially inorganic first partial layer (16) and a substantially polymer second partial layer (14/18) and wherein the first partial layer is substantially made of an oxide layer, and wherein the first partial layer has a thickness of 1 nm to 100 nm (the first partial layer is deposited on a further layer of silicon oxide situated on the silicon layer (12)- the Examiner notes that the silicon oxide layer has a thickness between 500 to 5000 Å- therefore the partial

layer of silicon oxide amounting to 1nm (10A) to 100 nm (1000 A) may be deposited upon silicon oxide since the total thickness of silicon oxide may be 5000 A)..

16. (New) The layer system as recited in claim 14, wherein the first partial layer is deposited one of directly on the silicon layer and on a further layer made of silicon oxide situated on, the silicon layer (the first partial layer is deposited on a further layer of silicon oxide situated on the silicon layer (12)- the Examiner notes that the silicon oxide layer has a thickness between 500 to 5000 A- therefore the partial layer of silicon oxide amounting to 1nm (10A) to 100 nm (1000 A) may be deposited upon silicon oxide since the total thickness of silicon oxide may be 5000 A).

17. (New) The layer system as recited in claim 15, wherein the second partial layer is substantially made of Polytetrafluoroethylene-like layer (Col.5, lines: 30-45)

18. (New) The layer system as recited in claim 16, wherein the second partial layer is substantially made of a Polytetrafluoroethylene layer (Col.5, lines: 30-45).

19. (New) The layer system as recited in claim 17, wherein the second partial layer has a thickness of 30 nm to 800 nm (Col.5, lines: 35-40).

20. (New) The layer system as recited in claim 18, wherein the second partial layer has a thickness of 30 nm to 800 nm (Col.5, lines: 35-40).

21. (New) The layer system as recited in claim 15, wherein the passivating layer is a layer protecting the silicon layer against an etch attack by a gaseous halogen fluoride (layer 16 is a n etch stop-Col.5, lines: 50-65).

22. (New) The layer system as recited in claim 16, wherein the passivating layer is a layer protecting the silicon layer against an etch attack by a gaseous halogen fluoride (layer 16 is a n etch stop-Col.5, lines: 50-65).

23. (New) The layer system as recited in claim 15, wherein the passivating layer is free of at least one of microscale and nanoscale channels that are pervious to a gaseous halogen fluoride (no channels are taught).

24. (New) The layer system as recited in claim 16, wherein the passivating layer is free of at least one of microscale and nanoscale channels that are pervious to a gaseous halogen fluoride (no channels are taught).

Allowable Subject Matter

Claims 25-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:
Prior art fails to teach nor suggest the limitations of claims 25-28 as recited therein.

Response to Arguments

Applicant's arguments filed 7/3/08 have been fully considered but they are not persuasive. Chooi teaches that the first dielectric layer of silicon oxide including 1000 A- Col.7-8, lines: 50-10 and Col.5, lines: 35-45 as part of a three layer dielectric combo formed over a conducting layer- dielectric layers passivate- silicon oxide is inherently a passivation layer because it prevents the flow of electricity-Applicant's arguments suggest that prior art must implement identical terminology to adequately anticipate Applicant's claim language- such an argument is not persuasive.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Schillinger whose telephone number is (571) 272-1697. The examiner can normally be reached on M-T, R-F 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W. Whitehead, Jr. can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Menz/
Primary Examiner, Art Unit 2813

09/28/08

Application/Control Number: 10/520,886
Art Unit: 2813

Page 7